

Collateral Consequences of Criminal Sentencing

- I. You must be familiar with direct and collateral consequences of the sentence and judgment, including:
 - A. Credit for pre-trial detention and credit against fines imposed;
 - B. Parole eligibility and applicable parole release ranges;
 - C. Place of confinement, level of security, and classification criteria used by department of Corrections;
 - D. Eligibility for correctional and educational programs;
 - E. Availability of drug rehabilitation programs, psychiatric treatment, health care, and other treatment programs;
 - F. Deportation and other immigration consequences (See below);
 - G. Loss of civil rights;
 - H. Impact of a fine or restitution and any resulting civil liability;
 - I. Possible revocation of probation or possible revocation of parole status if client is subject to a prior sentence;
 - J. Suspension of a motor vehicle operator's permit;
 - K. Prohibition of carrying a firearm;
 - L. Other consequences of conviction including, but not limited to, the forfeiture of professional licensure, the ineligibility for various government programs including student loans, registration as a sex offender and/or violent offender, loss of public housing, and the loss of the right to hold public office; and,

M. Federal Lacey Act prosecutions for fish and game violations;

N. Impact of the Adam Walsh Act.

II. Regarding Immigration:

A. You must be familiar with *Padilla v. Kentucky*, 130 S.Ct. 1473 (2010);

B. You must ask your non-citizen client facing possible immigration consequences the following five absolutely critical questions:

- i. When did you last enter the U.S.?
- ii. How did you enter? (E.g., "Green card;" "illegally;" "Visa.")
- iii. Did you ever get a green card, visa, or other legal permission to enter and, if so, when?
- iv. Have you ever been deported or put into deportation proceedings?
- v. What priors do you have (including misdemeanors)?

C. You must advise your noncitizen client when the immigration consequences of a plea or conviction are "truly clear."

D. You must understand that giving your noncitizen client a generic advisal that a plea or conviction "may lead to deportation" is not sufficient.

E. You must advise your client of the immigration consequences of felony convictions on reentry into the United States.

F. You should consider consulting an immigration attorney if you can't figure out the client's status or the specific immigration consequences of a plea or conviction.